

Introduction

The U.S. Tax Reform Act of 1986 (P.L. 99-514) requires states to assist adoptive parent(s) with payment of nonrecurring adoption expenses of up to \$2000.00 related to the adoption of a special needs child. This attachment provides staff with procedures to follow for children not eligible for the Missouri Adoption Subsidy Program (MASP). This attachment will primarily be used for independent or inter-state adoptions. It is not necessary for the child to have been in the custody of the Children's Division, DMH, DYS or a child-placing agency to qualify for payment of nonrecurring adoption expenses. If the child is eligible for MASP, refer to this chapter and Attachments A and B for instructions. As in MASP, stepparent and international adoptions are not eligible for this service.

Payment of nonrecurring adoption expenses only for eligible children can be made when the following criteria are met:

- The adoptive parent(s) must apply for payment and sign an agreement with the Division. The agreement must be approved by the Director before the adoption is final;
- The child must meet all the eligibility requirements (as described in this attachment);
- The adoptive parent(s) must provide documentation that the expenses claimed were incurred by the adoptive parent(s);
- The adoptive parent(s) must not have received payment or credit from other sources for these expenses; i.e., employee benefits, the Missouri Adoption Tax Credit, and other public or private funds; and
- The Division will not pay nonrecurring expenses which exceed \$2000.00 per child. The amount exceeding the limit for which the Division makes payment may be eligible for the Missouri Adoption Tax Credit. The adoptive parent(s) should be referred to the Missouri Internal Revenue Service for this determination. (See this chapter, Attachment D, for information about this special tax credit.)

Juvenile and Circuit Courts are expected to refer the adoptive parent(s) to the Children's Division office in the county of residence. This referral should occur immediately after the petition is filed. This will allow time for approval before the adoption is final.

NOTE: A Missouri child going to another state may be eligible for payment of these expenses in the receiving state. Contact the ICPC coordinator, if necessary, for assistance in determining the receiving state's requirements.

Eligibility Criteria

To be determined eligible for payment of nonrecurring adoption expenses, all of the following conditions must be met: (Also, see the CS-SA-4 and its instructions.)

1. The state has determined that the child should not or cannot be returned to the home of the parents;

Documentation: The adoptive parent(s) must provide a copy of the adoption decree. This decree affirms that all appropriate legal steps have been taken and that the adoption was completed according to Missouri law.

NOTE: The decree will not be available until after the agreement is signed and the adoption is granted. Staff should explain that this copy will be needed when the family submits the request for payment (2nd page of CS-SA-4). It must be received before any payment is made.

2. The state has determined that:
 - a) A specific factor (special need) exists for the child and because of this it is reasonable to conclude the child cannot be placed without a subsidy;

Documentation: The child meets this eligibility factor if the child meets any of the MASP special needs criteria. When the child's special need or condition is not readily observable, documentation must be provided via a statement from the child's physician, and/or an educational, psychological or psychiatric evaluation.

- b) A reasonable but unsuccessful effort has been made to place the child without a subsidy.
 - An effort to locate a family who would not need a subsidy was unsuccessful and there was no "readily available family." A family is "readily available" when the agency or person responsible for the child's adoptive placement did not need to make an effort to locate a family who would adopt without financial assistance. Efforts to locate a family who would not need financial assistance do not include those situations in which a child is "found" for a family; i.e., a family is ready to accept a child recruited for them. For example, most foreign children entering this country for adoption must have a family ready to accept them. Applying this principle makes the child ineligible although the child meets the other eligibility requirements.

Documentation: The family must provide documentation through a written description of the efforts made by an intermediary to locate a family who would not need a subsidy. This written description must be signed by the intermediary or a representative of the agency or organization acting as an intermediary.

NOTE: An intermediary is a person or agency who arranges the child's placement between the birth parents and the prospective adoptive parent(s).

- A reasonable, but unsuccessful, search for a family who would not need a subsidy is not required if the adoptive parent(s) was a foster/kinship parent(s) for the child and it is in the best interest of the child to be adopted by this family.

Documentation: The family must provide documentation that they provided foster/kinship care to the child immediately before filing the adoption petition.

3. The placement and the adoption are in accordance with state adoption laws.

Documentation: The family must provide a copy of the decree of adoption after the adoption is granted.

Payment Criteria

The CS-SA-4 (Application and Agreement for Payment of Nonrecurring Adoption Expenses) is used as the application and to obtain payment.

Upon determination that the child is eligible, the family is eligible for payment based on the following requirements:

1. Total payment for all nonrecurring adoption expenses shall not exceed \$2,000 per child. All expenses must be reasonable and customary for the services provided. If expenses included in the application appear extraordinary, staff should obtain area office approval for any of these expenses.
2. Nonrecurring adoption expenses are defined as:
 - a) Court filing fees;
 - b) Publication fee;

- c) Attorney fee;
- d) Guardian ad Litem fee;

NOTE: According to 453.020 RSMo, The GAL may be awarded a reasonable fee for such services to be sent by the court. The court, in it's discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of GAL fees shall constitute a final judgment in favor of the GAL.

- e) Other expenses incurred by the adoptive parent(s) which are directly related to the child's adoption and limited to:
 - The adoptive family assessment (adoptive home study), including health and psychological examinations, if necessary for the assessment and required by the private agency;
 - Placement supervision before final adoption; and
 - Transportation, food and lodging for the adoptive parent(s) and the child when necessary to complete a child's placement or adoption.
- 3. Documentation must be provided by the adoptive parent(s) through a stamped "paid receipt," a cancelled check, or money order receipt, invoice or other material, which verifies he/she incurred the expense.
- 4. Limitations:
 - a) Transportation: This expense is paid at the current rate established by the Children's Division for use of a personal automobile, or the actual charge of air or ground transportation.
 - b) Lodging and food: Reimbursed at the amount paid for by the adoptive parent(s). The state travel guidelines should be used to judge the reasonableness of the costs.
 - c) Legal (attorney, court, publication and GAL fees): This expense is paid at the rate paid by the adoptive parent(s). Attorney fees up to \$100.00 per hour may be reimbursed to the family with the maximum reimbursement amount being \$1,500.00 per child in uncontested and up to \$3,000 in contested matters.

NOTE: According to 453.020 RSMo, The GAL may be awarded a reasonable fee for such services to be sent by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of GAL fees shall constitute a final judgment in favor of the GAL.

- d) Health or psychological examinations, if required for the adoptive family assessment by the private agency. This will be paid at a reasonable and customary rate.
- e) Adoption Agency Fees: This expense will be included at the amount paid.
- f) Eligible nonrecurring adoption expenses do not include those paid for or provided through resources available to the adoptive parent(s), court or the agency facilitating the placement. Examples of these resources include:
 - A private agency waives the cost of the adoptive family assessment (home study) or the placement support services;
 - The family claimed the Missouri Adoption Tax Credit for nonrecurring adoption expenses;
 - The family has private insurance providing payment for certain services included in an adoption; and
 - A service provider has waived the cost for the service.

Procedure

1. Receive a referral from the court or inquiry from the family;
2. Explain the program to the family and provide a CS-SA-4;
3. Receive the CS-SA-4 from the adoptive parent(s);
4. Receive a completed CS-SA-4 from the private adoption agency, DYS, or DMH;
5. Set up the case record in the name of the adoptive parent(s);
6. Assist the applicant(s) or the other agency in obtaining any required documentation, if necessary;

7. Follow the CS-SA-4 instructions to review and approve or reject the application.
 - a) For court referrals, provide the adoptive parent(s) an opportunity to correct or add any information;
 - b) If the application is rejected, inform the family verbally and in writing of the following:
 - The reasons for the rejection;
 - The right to appeal the decision; and
 - Instructions on how to file an appeal.
8. Submit approved CS-SA-4 to Contract Management Unit (CMU);
9. CMU will obtain the Division Director's signature and approval, enter the contract number, and return the original to the county office;
10. After the adoption is final, the adoptive parent(s) must complete the "Request for Payment of Nonrecurring Adoption Expenses" section of the CS-SA-4 and submit it to the county office for approval. Once approved, the worker will assure appropriate receipts and invoices are received and then complete a CS-65 sending it and an IOC to Children's Services Payment Unit (CSPU) indicating that a copy of the final adoption decree is on file in the county office. Staff will complete the CS-65's for these services as indicated in the CS-65 instructions. At no time should the "Other" code be used. CSIPS will automatically pay nonrecurring expenses through the Title IV-E fund category;

NOTE: When making a payment to a vendor other than the adoptive parent(s), it will be necessary to use that vendor's DVN or assign a DVN to such vendors.

11. Briefly record all action related to processing the CS-SA-4;
12. File copies of the CS-65's, which indicate payment was made, in the case record or the county office's business files when received;
13. Contact the adoptive parent(s) or the other agency to inform them that payment has been made or will be made;

NOTE: The ZPND or ZPAY screens may be reviewed to determine whether payment will be or has been made.

14. Close record when all necessary action is complete;

TITLE: CHILD WELFARE MANUAL
SECTION 4: OUT-OF-HOME CARE
CHAPTER 30: SUBSIDIZING AN ADOPTION/LEGAL GUARDIANSHIP
ATTACHMENT D: NONRECURRING ADOPTION EXPENSE FOR SPECIAL NEEDS
CHILDREN NOT ELIGIBLE FOR THE MISSOURI ADOPTION
SUBSIDY
| EFFECTIVE DATE: August 28, 2004
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15. File the record in a designated section in the closed files and retain for five (5) years after the date payment is authorized.

| MEMORANDA HISTORY: CS03-33; CD04-79